

§ 767.26

to complete a financial information request form, answer written interrogatories, or submit independent verification of his or her financial information. If the respondent does not submit the requested financial information, he or she will be presumed to have the ability to pay the penalty.

(1) Financial information relevant to a respondent's ability to pay includes, but is not limited to, the value of respondent's cash and liquid assets and non-liquid assets, ability to borrow, net worth, liabilities, income, prior and anticipated profits, expected cash flow, and the respondent's ability to pay in installments over time. A respondent will be considered able to pay a penalty even if he or she must take such actions as pay in installments over time, borrow money, liquidate assets, or reorganize his or her business. The Director of the NHHC's consideration of a respondent's ability to pay does not preclude an assessment of a penalty in an amount that would cause or contribute to the bankruptcy or other discontinuation of the respondent's business.

(2) Financial information regarding respondent's ability to pay should be submitted to the Director of the NHHC as soon after receipt of the NOVA as possible. In deciding whether to submit such information, the respondent should keep in mind that the Director of the NHHC may assess de novo a civil penalty, enforcement costs and/or liability for damages either greater or smaller than that assessed in the NOVA.

§ 767.26 Criminal law.

Nothing in these regulations is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of applicable criminal law, whether the infringement pertains to a sunken military craft, a terrestrial military craft or other craft under the jurisdiction of the DON.

§ 767.27 References.

References for submission of permit application, including but not limited to, and as may be further amended:

32 CFR Ch. VI (7-1-16 Edition)

(a) National Historic Preservation Act (NHPA) of 1966, as amended, 54 U.S.C. 300101 *et seq.* (2014), and Protection of Historic Properties, 36 CFR part 800. This statute and its implementing regulations govern the section 106 review process established by the NHPA.

(b) National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, and Protection of the Environment, 40 CFR parts 1500 through 1508. This statute and its implementing regulations require agencies to consider the effects of their actions on the human environment.

(c) Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation available at http://www.cr.nps.gov/local-law/arch_stnds_0.htm. These guidelines establish standards for the preservation planning process with guidelines on implementation.

(d) Archaeological Resources Protection Act of 1979, as amended, 16 U.S.C. 470aa-mm, and the Uniform Regulations, 43 CFR part 7, subpart A. This statute and its implementing regulations establish basic government-wide standards for the issuance of permits for archaeological research, including the authorized excavation and/or removal of archaeological resources on public lands or Indian lands.

(e) Secretary of the Interior's regulations, Curation of Federally-Owned and Administered Archaeological Collections, 36 CFR part 79. These regulations establish standards for the curation and display of federally-owned artifact collections.

(f) Antiquities Act of 1906, Public Law 59-209, 34 Stat. 225 (codified at 16 U.S.C. 431 *et seq.* (1999)).

(g) Executive Order 11593, 36 FR 8291, 3 CFR, 1971-1975 Comp., p. 559 (Protection and Enhancement of the Cultural Environment).

(h) Department of Defense Instruction 4140.21M (DoDI 4140.21M, August 1998). Subject: Defense Disposal Manual.

(i) Secretary of the Navy Instruction 4000.35A (SECNAVINST 4000.35A, 9 April 2001). Subject: Department of the Navy Cultural Resources Program.

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